Hovsepian v. Apple, Inc. Doc. 298

RACHEL KREVANS (CA SBN 116421)
MATTHEW I. KREEGER (CA SBN 153793)
JASON A. CROTTY (CA SBN 196036)
DAVID M. HYMAS (CA SBN 226202)
MORRISON & FOERSTER LLP
425 Market Street
San Francisco, California 94105-2482
Telephone: 415.268.7000
Facsimile: 415.268.7522
RKrevans@mofo.com
MKreeger@mofo.com
JCrotty@mofo.com
DHymas@mofo.com

Attorneys for Defendants
ECHOSTAR SATELLITE LLC AND
ECHOSTAR TECHNOLOGIES CORP.

VICTOR G. SAVIKAS (CA SBN 145658)
LOUIS TOUTON (CA SBN 102380)
KEVIN G. McBRIDE (CA SBN 195866)
JONES DAY
555 South Flower Street, Fiftieth Floor
Los Angeles, California 90071
Telephone: 1.213.489.3939
Facsimile: 1.213.243.2539
vgsavikas@jonesday.com
lltouton@jonesday.com
kgmcbride@jonesday.com

Attorneys for Defendant
THE DIRECTV GROUP, INC.

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

SAN JOSE DIVISION

In re

ACACIA MEDIA TECHNOLOGIES CORPORATION

Case No. 05-CV-1114 JW

DECLARATION OF MATTHEW I. KREEGER IN SUPPORT OF THE SATELLITE DEFENDANTS' MOTION FOR SUMMARY JUDGMENT OF INVALIDITY OF THE '992, '863, AND '720 PATENTS

Date: TBD
Time: TBD
Courtroom: 8, 4th Floor
Judge: Hon. James Ware

Dockets.Justia.com

I, MATTHEW I. KREEGER, declare and state:

1. I am a partner at Morrison & Foerster LLP, counsel of record for defendants EchoStar Satellite LLC and EchoStar Technologies Corporation in this case. Unless otherwise stated, I have personal knowledge of the matters stated below and, if called as a witness to testify, could and would do so. I make this declaration in support of "The Satellite Defendants' Motion For Summary Judgment of Invalidity Of The '992, '863, And '720 Patents."

2. Attached as Exhibit A is a true and correct copy of the report sent to Mr. Lee Browne, one of the Yurt patentees, by the David Sarnoff Research Center on April 20, 1992.

3. Attached as Exhibit B is a true and correct copy of excerpts of the September 8-9, 2005 Hearing before this Court.

4. Attached as Exhibit C is a true and correct copy of excerpts of "Plaintiff Acacia Media Technologies Corporation's Claim Construction Brief," which Acacia filed on January 8, 2004 (Doc. No. 66).

5. Attached as Exhibit D is a true and correct copy of this Court's *Markman* Order dated July 12, 2004 ("*Markman I*") (Doc. No. 175), and filed in *Acacia Media Technologies Corp. v. New Destiny Internet Group, Inc., et al.,* SA CV 02-1040-JW (MLGx) (C.D. Cal.).

6. Attached as Exhibit E is a true and correct copy of this Court's *Markman* Order dated December 7, 2005 ("*Markman II*") (Doc. No. 119), and filed in *Acacia Media Technologies Corp. v. New Destiny Internet Group, Inc., et al.,* No. 05-1114 (N.D. Cal.).

7. Attached as Exhibit F is a true and correct copy of this Court's *Markman* Order dated December 14, 2006 ("*Markman III*") (Doc. No. 216), and filed in *Acacia Media Technologies Corp. v. New Destiny Internet Group, Inc., et al.,* No. 05-1114 (N.D. Cal.).

8. Attached as Exhibit G is a true and correct copy of this Court's *Markman* Order dated March 2, 2007 ("*Markman IV*") (Doc. No. 220), and filed in *Acacia Media Technologies Corp. v. New Destiny Internet Group, Inc., et al.*, No. 05-1114 (N.D. Cal.).

9. Attached as Exhibit H is a true and correct copy of this Court's *Markman* Order dated October 19, 2007 ("*Markman V*") (Doc. No. 259), and filed in *Acacia Media Technologies Corp. v. New Destiny Internet Group, Inc., et al.*, No. 05-1114 (N.D. Cal.).

10. Attached as Exhibit I is a true and correct copy of this Court's *Markman* Order dated February 13, 2008 ("*Markman VI*") (Doc. No. 266), and filed in *Acacia Media Technologies Corp. v. New Destiny Internet Group, Inc., et al.*, No. 05-1114 (N.D. Cal.).

11. Attached as Exhibit J is a true and correct copy of the "Parties' Stipulated Definitions for Claim Terms From the '863 and '720 Patents," which was filed on July 21, 2006 (Doc. No. 187).

12. Attached as Exhibit K is a true and correct copy of excerpts of "Plaintiff Acacia Media Technologies Corporation's Memorandum Of Points And Authorities In Support Of Its Motion For Reconsideration Of Certain Claim Construction Terms Construed By The Court In Its Third Claim Construction Order And Its Fourth Claim Construction Order," which Acacia filed on May 18, 2007 (Doc. No. 237).

13. Attached as Exhibit L is a true and correct copy of excerpts of the "Declaration Of S. Merrill Weiss In Support Of Plaintiff Acacia Media Technologies Corporation's Motion For Reconsideration Of Certain Claim Construction Terms Construed By The Court In Its Third Claim Construction Order And Its Fourth Claim Construction Order," which Acacia filed on May 18, 2007 (Doc. No. 239).

14. Attached as Exhibit M is a true and correct copy of the Yurt applicants' "Amendment" to Application No. 07/637,562, which the applicants filed on September 30, 1991 and was received by the PTO on October 1, 1991 (the '562 application eventually issued as the '992 patent).

15. Attached as Exhibit N is a true and correct copy of the Yurt applicants' December 26, 1991 Response to the PTO's December 10, 1991 Office Action filed in Application No. 07/637,562 (the '562 application eventually issued as the '992 patent).

16. Attached as Exhibit O is a true and correct copy of excerpts of the August 17, 2007 Hearing before this Court.

17. Attached as Exhibit P is a true and correct copy of the Yurt applicants' June 7, 1999 "Reply and Amendment Under 37 C.F.R. § 1.111" in Application No. 08/630,590 (the '590 application eventually issued as the '720 patent).

18. I declare under penalty of perjury under the laws of the United States of America and the State of California that the above is true and correct and that this declaration was executed on July 11, 2008, in San Francisco, California.

Matthew I. Kreeger